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April 22, 2005

Stephen W. Townsend, Clerk  
Supreme Court of New Jersey  
P.O. Box 970  
Trenton, New Jersey 08625-0962

Re: In the Matter of Hugo L. Moras  
Docket No. DRB 05-083  
District Docket No. VB-04-037E

Dear Mr. Townsend:

The Disciplinary Review Board reviewed the motion for discipline by consent ("reprimand or such lesser discipline as the Board shall deem warranted"), filed by the District VB Ethics Committee pursuant to R. 1:20-10(b). Following a review of the record, the Board determined to grant the motion. In the Board's view, a reprimand is the appropriate form of discipline for respondent's ethics infractions.

Specifically, from June 30, 2003, through August 16, 2004, respondent represented Carolyn Demps, the attorney-in-fact for Evelyn Gordon. During this period, respondent "failed to keep [Demps] reasonably informed, specifically by causing a four-month delay in providing a Statement of Escrow Expenditures for two pending Real Estate matters." In addition, respondent did not memorialize the rate or basis for his fee. Respondent stipulated that his conduct violated RPC 1.4, presumably (a) (failure to keep client reasonably informed about the status of the matter), and RPC 1.5(b) (failure to communicate, in writing, the basis or rate of the fee).

The stipulation of discipline by consent cites, as aggravating circumstances, respondent's ethics record (respondent was suspended for six months in 1993 and reprimanded in 1997) and, as a mitigating circumstance, his cooperation with the committee's investigation.

Respondent has agreed to (1) provide Demps with a written statement of services regarding the sale of two real estate properties; (2) issue a written apology to Demps for his failure to communicate with her; (3) attend the New Jersey Bar Association Diversionary Continuing Legal Education Program at a time and place selected by the OAE; (4) forward to the DEC investigator a copy of the documents/letters sent to Demps; and (5) complete the above conditions within six months (presumably from the date of the stipulation).

Ordinarily, violations of RPC 1.4(a) and RPC 1.5(b) result in no more than an admonition, even if accompanied by other improprieties. See, e.g., In the Matter of Larry McClure, Docket DRB 98-430 (February 22, 1999) (admonition for attorney who, in two matters, failed to communicate with clients and failed to act with diligence; in one of those matters, the attorney also failed to execute a written retainer agreement; in the other matter, the attorney failed to cooperate with the DEC investigator); In the Matter of Steven M. Olitsky, DRB 95-358 (November 27, 1996) (attorney admonished for failure to communicate, in writing, the basis or rate of his fee and failure to inform the client that work would not be initiated in the matter until the fee was fully paid); and In the Matter of Steven M. Olitsky, DRB 93-391 (November 22, 1993) (attorney received an admonition for failure to reduce fee agreement to writing and failure to reply to the client's requests for information about the matter).

Because of respondent's ethics history, however, an admonition would be insufficient discipline. In agreeing that no more than a reprimand is appropriate for respondent's conduct in this matter, the Board did not overlook that his disciplinary record includes a six-month suspension and a reprimand. Because, however, those two matters did not relate to respondent's representation of clients, but to recordkeeping (non-observance of trust account obligations),

I/M/O Hugo L. Moras

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the Board believed that a reprimand adequately addresses respondent's failure to communicate with his client and to memorialize the basis or rate for his fee. In the Board's view, the same reasoning applies to respondent's two temporary suspensions (fifteen days and twenty-seven days) for failure to comply with a court order for the payment of child support arrearages.

Finally, although the Board considered making the reprimand conditioned on respondent's proof of fulfillment of the agreement set forth in the stipulation, the Board realized that such action would be impractical because the diversionary courses by the New Jersey Bar Association are given only twice a year. The Board, therefore, agreed that respondent should provide proof of satisfaction of the conditions of the agreement within six months of the date of the stipulation. As usual, respondent's adherence to the deadline for the submission of such proof will be monitored by the Office of Attorney Ethics.

Enclosed are the notice of motion of discipline by consent, stipulation of discipline by consent, affidavit of consent, and respondent's ethics history.

Very truly yours,



Julianne K. DeCore  
Chief Counsel

/sw

Encls.

c: Mary J. Maudsley, Chair, Disciplinary Review Board  
David E. Johnson, Jr., Director, Office of Attorney Ethics  
Cynthia M. Craig, Chair,  
    District VB Ethics Committee  
Seth Ptasiewicz, Secretary,  
    District VB Ethics Committee  
Hugo L. Moras  
Evelyn Gordon